

January 20, 1999

Mr. Frank Crull
Assistant General Counsel
Texas Department of Public Safety
5805 North Lamar Boulevard
Austin, Texas 78773-0001



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

OR99-0141

Dear Mr. Crull:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121170.

You explain that the Texas Department of Public Safety (the "department") received a request for all records relating to September 12, 1998 arrest of Alexander Jones in Round Rock, Texas. You indicate that you received the request on October 5, 1998. You contend that the requested information is excepted from disclosure under section 552.108 of the Government Code. You have submitted the documents you seek to withhold.

The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten business days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. *See* Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. *See, e.g.*, Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests). You state that the department received the request for information on October 5, 1998. You did not seek a decision from this office until October 20, 1998. Consequently, you have not met your statutory burden.

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Attorney General

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Gov't Code 552.301. The requested information is therefore presumed public.¹

The records, however, contain information that must be withheld. Section 552.130 of the Government Code provides in relevant part as follows:

(a) Information is excepted from [disclosure] if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state[.]

* * * *

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

We have marked the types of information which you must withhold pursuant to section 552.130. In the absence of any other demonstration that the requested information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the submitted material except for information protected by section 552.130. Open Records Decision No. 195 (1978). *See also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB\nc

¹Generally, section 552.108 does not provide a compelling reason to overcome the presumption of openness. *See* Open Records Decision Nos. 586 (1991).

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Enclosures: Submitted documents

cc: Mr. Pat Graves
2103 Point Bluff Drive.
Austin, Texas 78746
(w/o enclosures)